

Senate Bill No. 210—Committee on Commerce and Labor

CHAPTER.....

AN ACT relating to utilities; revising provisions governing annual assessments imposed by the public utilities commission of Nevada; revising provisions governing the establishment of the rates of certain utilities; providing that certain accident reports concerning utilities must be open to public inspection; changing the dates for the calculation and payment of assessments by railroads; revising provisions governing the adoption of water conservation and incentive plans by utilities; revising provisions governing the provision of utility services to mobile home parks and company towns to include services from alternative sellers; providing for the acquisition of utility services by mobile home parks from alternative sellers; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 704.033 is hereby amended to read as follows:

704.033 1. ~~1. The~~ *Except as otherwise provided in subsection 6, the commission shall levy and collect an annual assessment from all public utilities , providers of discretionary natural gas service and alternative sellers* subject to the jurisdiction of the commission.

2. Except as otherwise provided in ~~subsection 3~~ *subsections 3 and 4*, the annual assessment must be:

(a) For the use of the commission, not more than 3.50 mills; and

(b) For the use of the consumer's advocate of the bureau of consumer protection in the office of the attorney general, not more than 0.75 mills,

on each dollar of gross operating revenue derived from the intrastate operations of such utilities , *providers of discretionary natural gas service and alternative sellers* in the State of Nevada . ~~1. except that the minimum assessment in any 1 year must be \$10.~~ The total annual assessment must be not more than 4.25 mills.

3. ~~For railroads the total annual assessment must be the amount levied for the use of the commission pursuant to paragraph (a) of subsection 2.~~ The levy for the use of the consumer's advocate must not be assessed against railroads.

4. The minimum assessment in any 1 year must be \$100.

5. The gross operating revenue of the utilities must be determined for the preceding calendar year. In the case of:

(a) Telephone utilities, except as *otherwise* provided in paragraph (c), the revenue shall be deemed to be all intrastate revenues . ~~that are considered by the commission for the purpose of establishing rates.~~

(b) Railroads, the revenue shall be deemed to be the revenue received only from freight and passenger intrastate movements.

(c) All public utilities, *providers of discretionary natural gas service and alternative sellers*, the revenue does not include the proceeds of any commodity, energy or service furnished to another public utility , *provider of discretionary natural gas service or alternative seller* for resale.

6. *Providers of commercial mobile radio service are not subject to the annual assessment and, in lieu thereof, shall pay to the commission an annual licensing fee of \$200.*

Sec. 2. NRS 704.035 is hereby amended to read as follows:

704.035 1. On or before June 1 of each year, the commission shall mail revenue report forms to all public utilities, *providers of discretionary natural gas service and alternative sellers* under its jurisdiction, to the address of those utilities, *providers of discretionary natural gas service and alternative sellers* on file with the commission. The revenue report form serves as notice of the commission's intent to assess ~~the utilities,~~ *such entities*, but failure to notify any ~~utility~~ *such entity* does not invalidate the assessment with respect thereto.

2. Each public utility, *provider of discretionary natural gas service and alternative seller* subject to the provisions of NRS 704.033 shall complete the revenue report referred to in subsection 1, compute the assessment and return the completed revenue report to the commission accompanied by payment of the assessment and any penalty due, pursuant to the provisions of subsection 5.

3. The assessment is due on July 1 of each year, but may, at the option of the public utility, *provider of discretionary natural gas service or alternative seller* be paid quarterly on July 1, October 1, January 1 and April 1.

4. The assessment computed by the utility, *provider of discretionary natural gas service or alternative seller* is subject to review and audit by the commission, and the amount of the assessment may be adjusted by the commission as a result of the audit and review.

5. Any public utility, *provider of discretionary natural gas service or alternative seller* failing to pay the assessment provided for in NRS 704.033 on or before August 1, or if paying quarterly, on or before August 1, October 1, January 1 or April 1, shall pay, in addition to such assessment, a penalty of 1 percent of the total unpaid balance for each month or portion thereof that the assessment is delinquent, or \$10, whichever is greater, but no penalty may exceed \$1,000 for each delinquent payment.

6. When a public utility, *provider of discretionary natural gas service or alternative seller* sells, transfers or conveys substantially all of its assets or, *if applicable, its* certificate of public convenience and necessity, the commission shall determine, levy and collect the accrued assessment for the current year not later than 30 days after the sale, transfer or conveyance, unless the transferee has assumed liability for the assessment. For purposes of this subsection, the jurisdiction of the commission over the selling, transferring or conveying public utility, *provider of discretionary natural gas service or alternative seller* continues until it has paid the assessment.

7. The commission may bring an appropriate action in its own name for the collection of any assessment and penalty which is not paid as provided in this section.

8. The commission shall, on a quarterly basis, transfer to the account for the consumer's advocate of the bureau of consumer protection in the office of the attorney general that portion of the assessments collected which belongs to the consumer's advocate.

Sec. 3. NRS 704.095 is hereby amended to read as follows:

704.095 The commission shall adopt regulations which provide a simplified procedure *or methodology* for a change of rates for those public utilities which furnish water or services for the disposal of sewage, or both, to persons within this state for compensation, and which:

1. Serve 3,000 or fewer persons; and
2. Had during the immediately preceding 12-month period gross sales for water or services for the disposal of sewage, or both, amounting to \$1,000,000 or less.

Sec. 4. NRS 704.190 is hereby amended to read as follows:

704.190 1. Every public utility operating in this state shall, whenever an accident occurs in the conduct of its operation causing death, give prompt notice thereof to the commission, in such manner and within such time as the commission may prescribe. If, in its judgment, the public interest requires it, the commission may cause an investigation to be made forthwith of any accident, at such place and in such manner as the commission deems best.

2. Every such public utility shall report to the commission, at the time, in the manner and on such forms as the commission by its printed rules and regulations prescribes, all accidents happening in this state and occurring in, on or about the premises, plant, instrumentality or facility used by any such utility in the conduct of its business.

3. The commission shall adopt all reasonable rules and regulations necessary for the administration and enforcement of this section. The rules and regulations must ~~in any event~~ require that all accidents required to be reported pursuant to this section be reported to the commission at least once every calendar month by such officer or officers of the utility as the commission directs.

4. The commission shall adopt and utilize all accident report forms, which ~~forms~~ must be so designed as to provide a concise and accurate report of the accident. ~~and which~~ The report must ~~in any event~~ show the true cause of the accident. The accident report forms adopted for the reporting of railroad accidents must, *as near as practicable*, be the same in design as ~~near as may be as~~ the railroad accident report forms provided and used by the Surface Transportation Board.

5. If any accident *is* reported to the commission ~~is reported~~ by the utility as being caused by or through the negligence of an employee and thereafter the employee is absolved from such negligence by the utility and found not to be responsible for the accident, that fact must be reported by the utility to the commission.

6. ~~All accident reports~~ *Each accident report* required *to be made by a public utility* pursuant to this section must be filed in the office of the commission and there preserved. ~~Notwithstanding any other provisions of law, neither any~~ *Each* accident report ~~made as~~ required *to be made by a public utility pursuant to* this chapter ~~nor any report of~~ *and each report made by* the commission ~~made~~ pursuant to *its investigation of* any accident ~~investigation made by it, may~~:

(a) Except as otherwise provided in subsection 2 of NRS 703.190, must be open to public inspection ~~for disclosed to any person, except upon~~

~~order of the commission, nor may either or any of the reports, or any portion thereof,; and~~

(b) Notwithstanding any specific statute to the contrary, must not, in whole or in part, be admitted as evidence or used for any purpose in any suit or action for damages ~~growing~~ arising out of any matter mentioned in ~~the~~:

(1) The accident report required to be made by the public utility; or

(2) The report ~~of any such~~ made by the commission pursuant to its investigation.

Sec. 5. NRS 704.309 is hereby amended to read as follows:

704.309 1. The commission shall levy and collect an annual assessment from each railroad subject to the jurisdiction of the commission that transports cargo into, out of or through this state to support the activities of the commission relating to railroad safety.

2. The annual assessment levied on railroads:

(a) Must be equal to the costs incurred by the commission that are not offset by the fees paid pursuant to NRS 459.512.

(b) Must be not more than 1 cent per ton of cargo transported by the railroads into, out of or through this state during the immediately preceding calendar year.

3. On or before ~~August~~ *September* 1 of each year, the commission shall:

(a) Calculate the amount of the assessment to be levied pursuant to this section for the previous fiscal year; and

(b) Mail to each railroad subject to the provisions of this section to the current address of the railroad on file with the commission a notice indicating the amount of the assessment. The failure of the commission to so notify a railroad does not invalidate the assessment.

4. An assessment levied pursuant to this section is due on or before ~~October~~ *November* 1 of each year. Each railroad that is subject to the provisions of this section which fails to pay the assessment on or before ~~November~~ *December* 1, shall pay, in addition to the assessment, a penalty of 1 percent of the total unpaid balance for each month or portion thereof that the assessment is delinquent or \$10, whichever is greater, except that no penalty may exceed \$1,000 for each delinquent payment.

5. If a railroad sells or transfers its certificate of public convenience and necessity or sells or transfers substantially all of its assets, the commission shall calculate, levy and collect the accrued assessment for the current year not later than 30 days after the sale or transfer, unless the purchaser or transferee has assumed liability for the assessment. For the purposes of this subsection, the jurisdiction of the commission over the sale or transfer of a railroad continues until the assessment of the railroad has been paid.

6. The commission may bring an appropriate action in its own name for the collection of any assessment and penalty that is not paid pursuant to this section.

Sec. 6. NRS 704.662 is hereby amended to read as follows:

704.662 1. Except as otherwise provided in subsection 5, each public utility which furnishes, for compensation, any water for municipal, industrial or domestic purposes shall adopt a plan of water conservation

based on the climate and the living conditions in its service area in accordance with the provisions of NRS 704.6622. The provisions of the plan must only apply to the public utility's property and its customers.

2. As part of the procedure of adopting a plan, the public utility shall provide an opportunity for any interested party, including, but not limited to, any private or public entity that supplies water for municipal, industrial or domestic purposes, to submit written views and recommendations on the plan.

3. Except as otherwise provided in subsection 6, the plan:

(a) Must be available for inspection by members of the public during office hours at the office of the public utility; and

(b) May be revised from time to time to reflect the changing needs and conditions of the service area. Each such revision must be filed with the commission and made available for inspection by members of the public within 30 days after its adoption.

4. ~~The plan must be submitted to the commission on or before July 1, 1992. The commission shall review the plan for compliance with this section within 30 days after its submission.~~ The plan must be approved by the commission before it is put into effect.

5. In lieu of adopting a plan pursuant to subsection 1, a public utility which is subject to the provisions of NRS 704.095 may elect to comply with a plan of water conservation adopted by the commission for this purpose.

6. If the public utility is required by order of the commission to file a management plan for water resources, the public utility may adopt and file the plan of water conservation with the commission at the same time it is required to file the management plan for water resources.

Sec. 7. NRS 704.6624 is hereby amended to read as follows:

704.6624 1. Each public utility which furnishes, for compensation, any water for municipal, industrial or domestic purposes shall ~~on or before July 1, 1992,~~ adopt a plan to provide incentives:

(a) To encourage water conservation in its service area;

(b) To retrofit existing structures with plumbing fixtures designed to conserve the use of water; and

(c) For the installation of landscaping that uses a minimal amount of water.

2. As part of the procedure of adopting a plan, the public utility shall provide an opportunity for any interested person to submit written views and recommendations on the plan.

3. The plan:

(a) Must be available for inspection by members of the public during office hours at the office of the public utility; and

(b) May be revised from time to time to reflect the changing needs and conditions of the service area. Each such revision must be filed with the commission and made available for inspection by members of the public within 30 days after its adoption.

4. The commission shall review the plan for compliance with this section within 30 days after its submission. The plan must be approved by the commission before it is put into effect.

Sec. 8. NRS 704.905 is hereby amended to read as follows:

704.905 As used in NRS ~~[704.910]~~ 704.905 to 704.960, inclusive:

1. *“Alternative seller” has the meaning ascribed to it in NRS 704.994.*

2. “Company town” means a community whose primary purpose is to provide housing to employees of a person who owns not less than 70 percent of the dwellings, and may include commercial or other supporting establishments.

~~[2-]~~ 3. “Dwelling” includes a commercial or other supporting establishment.

~~[3-]~~ 4. “Utility” includes a public utility and all city, county or other governmental entities which provide electric, gas or water service to a mobile home park or a company town.

Sec. 9. NRS 704.910 is hereby amended to read as follows:

704.910 1. The provisions of NRS 704.910 to 704.960, inclusive, apply to mobile home parks governed by the provisions of chapters 118B and 461A of NRS, utilities *and alternative sellers* which provide *utility* service to those parks and landlords who operate those parks.

2. A utility *or an alternative seller* which provides gas, water or electricity to any landlord exclusively for distribution or resale to tenants residing in mobile homes or for the landlord’s residential use shall not charge the landlord for those services at a rate higher than the current rates offered by the utility *or alternative seller, as appropriate*, to its residential customers.

Sec. 10. NRS 704.920 is hereby amended to read as follows:

704.920 1. The provisions of NRS 704.920 to 704.960, inclusive, apply to company towns, utilities *and alternative sellers* which provide *utility* services to company towns, and persons who own and operate company towns.

2. The commission shall require a public utility *or an alternative seller, as appropriate*, which provides ~~[service]~~ *utility services* to a mobile home park or to a company town, or an independent person who is qualified, to conduct examinations to examine and test the lines and equipment for distributing electricity and gas within the park or town at the request of the manufactured housing division of the department of business and industry or a city or county which has responsibility for the enforcement of the provisions of chapter 461A of NRS. The utility ~~[H]~~ *or alternative seller*, the person selected to conduct the examination and the commission may enter a mobile home park or company town at reasonable times to examine and test the lines and equipment, whether or not they are owned by a utility ~~[H]~~ *or an alternative seller*.

3. The utility *or alternative seller, as appropriate*, or the person selected to conduct the examination, shall conduct the examination and testing to determine whether any line or equipment is unsafe for service under the safety standards adopted by the commission for the maintenance, use and operation of lines and equipment for distributing electricity and gas, and shall report the results of the examination and testing to the commission.

4. The owner of the mobile home park or company town shall pay for the costs of the examination and testing.

5. If the landlord of a mobile home park or owner of a company town refuses to allow the examination and testing to be made as provided in this section, the commission shall deem the unexamined lines and equipment to be unsafe for service.

6. If the commission finds:

(a) Or deems any lines or equipment within a mobile home park or company town to be unsafe for service, it shall take appropriate action to protect the safety of the residents of the park or town.

(b) Such lines or equipment to be unsafe for service or otherwise not in compliance with its safety standards, it may, after a hearing, order the landlord or owner to repair or replace such lines and equipment. For this purpose ~~the~~, *the landlord or owner* may expend some or all of the money in his account for service charges for utilities, which he is required to keep under NRS 704.940.

Sec. 11. NRS 704.930 is hereby amended to read as follows:

704.930 If a utility ~~furnishes~~ *or an alternative seller provides a utility* service to a mobile home park or company town and the landlord of the park or owner of the town charges his tenants or the occupants of his dwellings for that service, ~~the~~ *the landlord or owner* shall:

1. Provide that service to his tenants or the occupants of his dwellings in a manner which is consistent with the utility's tariffs on file with the commission, *if applicable*, and any law, ordinance or governmental regulation relating to the provision of ~~those services~~ *that service*. The landlord or owner of the town shall not interrupt such a service for nonpayment of charges unless the interruption is performed in a manner which is consistent with the utility's tariffs on file with the commission, *if applicable*, and any law, ordinance or governmental regulation relating to the manner of interrupting such a service for nonpayment of charges.

2. Not more than 5 days after he receives notice of a proposed increase in the ~~utility's rates~~, *rates of the utility service*, give notice to his tenants or those occupants of the proposed increase.

Sec. 12. NRS 704.940 is hereby amended to read as follows:

704.940 1. In a mobile home park or company town where the landlord or owner is billed by a gas or electric utility *or an alternative seller* and in turn charges the tenants or occupants of the dwellings for the service provided by the utility ~~the~~ *or alternative seller*, and the park or town:

(a) Is equipped with individual meters for each lot, the landlord or owner shall not charge a tenant or occupant for that service at a rate higher than the rate paid by the landlord or owner.

(b) Is not equipped with individual meters for each lot, the landlord or owner shall prorate the cost of the service equally among the tenants of the park or occupants of the dwellings who use the service, but the prorated charges must not exceed in the aggregate the cost of the service to the landlord or owner.

2. In a mobile home park or company town that:

(a) Is equipped with individual water meters for each lot, the individual meters must be read and billed by the purveyor of the water.

(b) Is not equipped with individual water meters for each lot and the landlord or owner is billed by the purveyor of the water and in turn charges

the tenants or occupants of the dwellings for the service provided by the purveyor, the landlord or owner shall prorate the cost of the service equally among the tenants of the park or occupants of the dwellings who use the service, but the prorated charges must not exceed in the aggregate the cost of the service to the landlord or owner.

The landlord or owner of a mobile home park that converts from a master-metered water system to individual water meters for each mobile home lot shall not charge or receive any fee, surcharge or rent increase to recover from his tenants the costs of the conversion. The owner of a company town that is not equipped with individual water meters shall not convert from the master-metered water system to individual water meters.

3. To the extent *that* the cost of providing *a utility* service to the common area of a mobile home park or company town can be identified, the landlord or owner may not recover the cost of ~~{service provided by}~~ the utility *service provided* to the common area by directly charging a tenant or the occupant of a dwelling for those services.

4. The landlord of a mobile home park or owner of a company town may assess and collect a charge to reimburse him for the actual cost of the service charge he is required to pay to a water utility serving the park or town. If he collects such a charge, he shall prorate the actual cost of the service charge to the tenants or occupants of dwellings who use the service. He shall not collect more than the aggregate cost of the service to him.

5. The landlord may assess and collect a service charge ~~{for gas and electric utilities}~~ from the tenants of the park ~~{}~~ *for the provision of gas and electric utility services*, but the amount of the charge must not be more than the tenants would be required to pay the ~~{serving utility}~~ *utility or alternative seller providing the service*. The landlord shall:

(a) Keep the money from the service charges in a separate account and expend it only for federal income taxes which must be paid as a result of the collection of the service charge, for preventive maintenance or for repairing or replacing utility lines or equipment when ordered or granted permission to do so by the commission; and

(b) Retain for at least 3 years a complete record of all deposits and withdrawals of money from the account and file the record with the commission on or before March 30 of each year.

6. Money collected by the landlord or owner for service provided by a utility *or an alternative seller* to the tenants of a mobile home park or occupants of the dwellings may not be used to maintain, repair or replace utility lines or equipment serving the common area of the mobile home park or company town.

7. The owner of a company town who provides a utility service directly to the occupants of the town may charge the occupants their pro rata share of his cost of providing that service. Where meters are available, the pro rata share must be based on meter readings. Where meters are not available, the owner shall determine a fair allocation which must be explained in detail to the commission in the reports required by NRS 704.960. The commission may modify the allocation in accordance with its regulations if it determines the owner's method not to be fair. The commission shall adopt regulations governing the determination of the costs which an owner of a company town may recover for providing a

utility service directly to the occupants of that town and the terms and conditions governing the provision of that service.

8. The landlord or owner shall itemize all charges for ~~utilities~~ *utility services* on all bills for rent or occupancy. ~~He~~ *The landlord or owner* may pass through to the tenant or occupant any increase in a rate for a utility *service* and shall pass through any decrease in a charge for a utility *service* as it becomes effective.

9. The landlord or owner shall retain for at least 3 years a copy of all billings for ~~utilities~~ *utility services* made to his tenants or the occupants of his dwellings and shall make these records available upon request to the commission for verification of charges made for ~~utilities~~ *utility services*.

10. A landlord whose interest in a mobile home park terminates for any reason shall transfer to his successor in interest any balance remaining in the account for service charges for utilities. Evidence of the transfer must be filed with the commission.

11. The commission may at any time examine all books and records which relate to the landlord's or owner's purchase of or billing for a service provided by a utility *or an alternative seller* if he is charging the tenants of the mobile home park or occupants of the dwellings for that service.

Sec. 13. NRS 461A.230 is hereby amended to read as follows:

461A.230 1. Each mobile home park constructed after July 1, 1981, but before October 1, 1989, must provide direct electrical and gas service from ~~the~~ *a* utility *or an alternative seller* to each lot if those services are available.

2. Each mobile home park constructed after October 1, 1989, must provide direct:

(a) Electrical and gas service from a public utility *or an alternative seller*, or a city, county or other governmental entity which provides electrical or gas service, to each lot if those services are available.

(b) Water service from a public utility or a city, county or other governmental entity which provides water service, the provisions of NRS 704.230 notwithstanding, to the park if that service is available.

3. In a county whose population is 400,000 or more, each mobile home park constructed after October 1, 1995, must provide direct water service, as provided in paragraph (b) of subsection 2, that is connected to individual meters for each lot. The individual meters must be installed in compliance with any uniform design and construction standards adopted by the public utility or city, county or other governmental entity which provides water service in the county.

4. As used in this section, "alternative seller" has the meaning ascribed to it in NRS 704.994.

Sec. 14. 1. This section and section 5 of this act become effective on July 1, 2001.

2. Sections 1 to 4, inclusive, and 6 to 13, inclusive, of this act become effective on October 1, 2001.